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18 **UNITED STATES DISTRICT COURT**

19 **NORTHERN DISTRICT OF CALIFORNIA**

20 **SAN FRANCISCO DIVISION**

21 IN RE: UBER TECHNOLOGIES, INC.,
22 PASSENGER SEXUAL ASSAULT
22 LITIGATION

23 Case No. 3:23-md-03084-CRB

24 **SUPPLEMENTAL DECLARATION OF
JAMIE BROWN**

25 This Document Relates to:

Judge: Hon. Lisa J. Cisneros
Courtroom: G – 15th Floor

26 ALL ACTIONS

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1 I, Jamie Brown, declare under penalty of perjury as follows:

2 1. I am a Vice President of Global Advisory Services at Lighthouse, which provides
 3 eDiscovery services to Uber Technologies Inc. (“Uber”), a Defendant in the above captioned matter.
 4 I previously set forth my qualifications in a declaration provided in support of Uber’s ESI protocol on
 5 April 12, 2024, which are incorporated herein.

6 2. I submit this declaration at Defendant Uber’s and its outside counsel, Paul Weiss’s and
 7 Shook Hardy and Bacon’s request and as a supplement to my previous declaration filed on
 8 June 7, 2024, in which I provided information related to Plaintiffs’ proposed number of custodians
 9 and proposed search terms.

10 3. I understand that the parties disagree about certain custodians’ data to be collected –
 11 specifically, 18 of the total 55 custodians.¹ In connection with their request, Plaintiffs submitted the
 12 declaration of Douglas Forrest on August 19, 2024 (ECF 1137-7) setting forth four reasons why
 13 Plaintiffs’ proposed list is justified, to which I will respond in turn. I am familiar with the facts
 14 contained herein and am prepared to testify to the extent required.

15 **Argument 1: Deduplication**

16 4. Mr. Forrest argues that Uber’s collection will be deduplicated pursuant to Section 12
 17 of the ESI Order and that “[a]ny duplicates in the documents of the [18] disputed custodians will be
 18 filtered out before any review and will have no or minimal effect on the efforts required of Uber.”
 19 This statement is an oversimplification and incomplete.

20 5. This assertion is an oversimplification because it suggests that deduplication is
 21 guaranteed to drastically reduce the volume of data subject to review. Realistically, the impact
 22 deduplication has on data volume depends upon the method used and how duplicative the content
 23 actually is, which is driven by the relationship between the custodians, overlap of roles and likelihood
 24 the same content was shared / retained / collected from the custodian population. In this case, pursuant
 25 to the ESI protocol, a document’s “hash value” serves as the sole method for deduplication, which is
 26 the narrowest method for identifying unique content. A hash value, such as MD5 or SHA-1, is a

28 ¹ Counsel for Uber notified me that Uber agreed to one additional custodian, thereby reducing the
 number in dispute from 19 to 18.

1 computer generated algorithm that is a widely used and accepted method for authenticating and
 2 deduplicating documents.² It is important to note that documents truly have to be identical to have the
 3 same hash value – for example, even a difference of one letter (or space!) would generate a different
 4 value. In contrast, the ESI protocol does not permit deduplication of “near-duplicates,” such as a
 5 document that is substantively the same but for various reasons like the example above, has a different
 6 hash value – the point being that the hash value will exclude only a fraction of the documents that are
 7 actually duplicative for all intents and purposes.

8 6. Further, Mr. Forrest’s statement paints an incomplete picture of how deduplication
 9 impacts the broader discovery process, as if, because of deduplication methods, there is no time, cost
 10 or burden associated with the discovery of the underlying data. This ignores the fact the data still has
 11 to be collected and processed before it can be deduplicated; more importantly, it ignores provisions in
 12 the ESI protocol requiring substantial manual review.

13 **Argument #2: Reduction Rate Using Keywords**

14 7. Mr. Forrest’s second argument is that the application of search terms should result in
 15 the same reduction rate of 68% as with a sample set of other custodians. Mr. Forrest’s conclusions
 16 are purely speculative, as the terms have not actually been applied against this yet-to-be-collected data
 17 set.

18 8. He then suggests that any reduction using keywords removes such a substantial portion
 19 of the document universe that it virtually “eliminates” the need for manual review, which simply is
 20 not the case and ignores that the ESI protocol necessitates a manual review of a substantial amount of
 21 documents.

22 **Argument #3: Use of TAR**

23 9. Mr. Forest’s third argument is, “[T]o the extent that there were still non-responsive
 24 documents in the population after this 68% reduction, the TAR 2.0 process being implemented here
 25 will largely weed out any remaining non-duplicate, non-responsive documents . . .”

27 2 The algorithm generates a unique value (sometimes referred to as a digital fingerprint) for a given
 28 document; the unique values can then be compared to other documents for sameness in an automated
 manner.

1 10. This argument implies that the search terms are so precise that they will hit only on
2 responsive documents, but common sense suggests otherwise. In reality, search terms are used only
3 to initially cull the data, and that initial reduction is not dispositive of the responsiveness rate, which
4 depends on many other factors, such as the search terms themselves given the context. While
5 responsiveness rates vary, in practice, typically only a fraction of documents that hit on search terms
6 are responsive.

7 11. Further, the volume of data to be reviewed – in aggregate – will be tremendous, and is
8 attributable to the large volume of data collected and the anticipated low reduction rate associated with
9 the search terms. Notably, the data volume in this review set represents the top 1% of cases handled
10 by Lighthouse.

11 **Argument 4: Production of Responsive Documents**

12 12. Lastly, Mr. Forrest states that Uber should be required to produce non-duplicative
13 responsive documents, some of which could be probative and/or dispositive of issues in the case. It is
14 axiomatic that nonprivileged, responsive, and otherwise discoverable documents identified through a
15 review process should be produced. Mr. Forrest's statement merely reflects this axiom without
16 elaboration, and therefore does not require further response.

17 I affirm under penalty of perjury of the laws of the State of New York that the foregoing
18 statement is true and correct. Executed on August 29, 2024 in New York, New York.

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/s/ 
Jamie Brown

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